



General Assembly

Substitute Bill No. 920

January Session, 2009

* SB00920INS_051309 *

**AN ACT CLARIFYING PENSION OBLIGATIONS OF CONTRACTORS
AND SUBCONTRACTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 31-53 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2009*):

4 (f) Each employer subject to the provisions of this section or section
5 31-54 shall (1) keep, maintain and preserve such records relating to the
6 wages and hours worked by each person performing the work of any
7 mechanic, laborer and worker and a schedule of the occupation or
8 work classification at which each person performing the work of any
9 mechanic, laborer or worker on the project is employed during each
10 work day and week in such manner and form as the Labor
11 Commissioner establishes to assure the proper payments due to such
12 persons or employee welfare funds under this section or section 31-54,
13 regardless of any contractual relationship alleged to exist between the
14 contractor and such person, and (2) submit monthly to the contracting
15 agency a certified payroll that shall consist of a complete copy of such
16 records accompanied by a statement signed by the employer that
17 indicates (A) such records are correct; (B) the rate of wages paid to
18 each person performing the work of any mechanic, laborer or worker
19 and the amount of payment or contributions paid or payable on behalf

20 of each such person to any employee welfare fund, as defined in
21 subsection (h) of this section, are not less than the prevailing rate of
22 wages and the amount of payment or contributions paid or payable on
23 behalf of each such person to any employee welfare fund, as
24 determined by the Labor Commissioner pursuant to subsection (d) of
25 this section, and not less than those required by the contract to be paid;
26 (C) the employer has complied with the provisions of this section and
27 section 31-54; (D) each such person is covered by a workers'
28 compensation insurance policy for the duration of such person's
29 employment, which shall be demonstrated by submitting to the
30 contracting agency the name of the workers' compensation insurance
31 carrier covering each such person, the effective and expiration dates of
32 each policy and each policy number; (E) the employer does not receive
33 kickbacks, as defined in 41 USC 52, from any employee or employee
34 welfare fund; and (F) pursuant to the provisions of section 53a-157a,
35 the employer is aware that filing a certified payroll which the
36 employer knows to be false is a class D felony for which the employer
37 may be fined up to five thousand dollars, imprisoned for up to five
38 years, or both. This subsection shall not be construed to prohibit a
39 general contractor from relying on the certification of a lower tier
40 subcontractor, provided the general contractor shall not be exempted
41 from the provisions of section 53a-157a if the general contractor
42 knowingly relies upon a subcontractor's false certification.
43 Notwithstanding the provisions of section 1-210, the certified payroll
44 shall be considered a public record and every person shall have the
45 right to inspect and copy such records in accordance with the
46 provisions of section 1-212. The provisions of subsections (a) and (b) of
47 section 31-59 and sections 31-66 and 31-69 that are not inconsistent
48 with the provisions of this section or section 31-54 apply to this section.
49 Failing to file a certified payroll pursuant to subdivision (2) of this
50 subsection is a class D felony for which the employer may be fined up
51 to five thousand dollars, imprisoned for up to five years, or both. A
52 general contractor or subcontractor may, in good faith, rely on the
53 certification of a lower tier subcontractor as an affirmative defense to
54 an action brought by the Labor Commissioner to collect unpaid

55 benefits on behalf of an employee of such lower tier subcontractor if
56 the general contractor requires the subcontractor to provide (i) a
57 payment bond on the public works project, or (ii) sufficient verification
58 from the pension and benefit fund administrator of the relevant fund
59 that the amount of payment or contributions required to be paid on
60 behalf of each such person to any employee welfare fund, as defined in
61 subsection (h) of this section, has been paid.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2009	31-53(f)
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LAB *Joint Favorable Subst.*

PD *Joint Favorable*

INS *Joint Favorable*